THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 10701 OF 2005

A N D

W.P.No.14601 OF 2005

A N D

W.P.No. 15784 OF 2005

A N D

W.P.No. 5109 OF 2005

Between:

W.P.No. 10701 OF 2005

1. T.Md. Haneef and Others …Petitioners

A N D

1. Government of Andhra Pradesh, rep. by its

Secretary, Social Welfare Department, Secretariat,

Saifabad, Hyderabad and Others …Respondents

Between:

W.P.No.14601 OF 2005

M.Krupanandam and Others …Petitioners

A N D

1. The Govt. of A.P. Rep. by its Secretary,

Revenue Department, Secretariat, Hyderabad and Others.

…Respondents.

Between:

W.P.No. 15784 OF 2005

1. T.Abdul Sukur …petitioner

A N D

1. Government of Andhra Pradesh, rep. by its

Secretary, Social Welfare Department, Secretariat,

Saifabad, Hyderabad and Others …Respondents

Between:

W.P.No. 5109 OF 2005

Haji T. Md. Haneef and Others …Petitiones

A N D

1. Government of Andhra Pradesh, rep. by its

Secretary, Social Welfare Department, Secretariat,

Saifabad, Hyderabad and Others …Respondents

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 10701 OF 2005

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COMMON ORDER:

1. The issue involved in all these writ petitions is one and the same and, therefore, they are heard together and are being disposed of by this common order.

2. The petitioners claim that they are the owners of the land bearing Survey Nos.66/B, 66/B2 respectively of Yemmiganur village. The land came to be acquired by the Government for providing house sites to the weaker sections. A notification under Section 4(1) of Land Acquisition Act came to be issued on 17-10-1998. Advance possession was taken by the Government by invoking the urgency clause under Section 17(4) of the Land Acquisition Act. Some negotiations went on with regard to the fixation of the market value. The negotiations initiated by the District Level Committee and State-level Committee proved to be futile, as the land owners did not agree rates suggested by them. Ultimately, the petitioners filed W.P.No. 10102/2004 seeking direction to the Land Acquisition Officer to pass an order taking into consideration the value determine by this Court in Appeal Suit No. 1544 of 1986. The writ petition filed by them came to be disposed of on 24-6-2004. The relevant portion in the order passed in the writ petition reads as follows:

> "*Admittedly, the petitioners land were taken possession in pursuance of the notification published under Section 4(1) of the Act, dt: 17-10-1998 and as no compensation was paid so far the respondents are directed to pay compensation immediately within a period of four weeks in terms of Section 17(3) (A) of the Act, i.e. 80% of the Market Value.*
>
> *The fifth respondent is further directed to initiate award proceedings and pass award after conducting necessary enquity within a period of three months from the date of the receipt of the copy of this order, it is further directed that the Land Acquisition Officer is under obligation to consider the evidence, including the judgment of this Court, as well as the market value fixed by the Government, while fixing the market value in the award proceedings. As the compensation has to be paid by the social Welfare Department, represented by the second respondent, the second respondent is also specifically directed to make 80% of the compensation available to the Land Acquisition Officer for disbursement within the period*

stipulated above".

3. It appears that the Land Acquisition Officer passed an Award on 27-10-2004. These writ petitions are filed questioning the Award on the ground that the Land Acquisition Officer did not issue any notice requiring the petitioners to participate in the award enquiry. The further grievance of the writ petitioners is that the Land Acquisition Officer has not taken into consideration the direction given in W.P.No.10102 of 2004, while passing the Award.

4. Respondents filed counter affidavit. As can be seen from the counter-affidavit, the Land Acquisition Officer did not issue any notice to the petitioners requiring them to participate in the enquiry after the order passed in W.P.No. 10102 of 2004.

5. Heard the learned counsel for the petitioners and the learned Government Pleader for Land Acquisition appearing for the respondents.

6. This is virtually the second round of litigation. In the earlier round of litigation the petitioners approached this Court seeking direction to the respondents to pass an Award. The Writ Petition No. 10102 of 2004 came to be disposed of on 24-06-2004 with the directions stated supra.

7. The Land Acquisition Officer has to conduct enquiry by issuing notice under Section 9 of the Act to the persons interested. It is not in dispute that the Land Acquisition Officer has not issued any notice to the petitioners after the orders passed by this Court in W.P.No.10102 of 2004. The Land Acquisition Officer proceeded with the enquiry basing on the notices issued in the year 1998. No notice has been issued afresh to the petitioners requiring their presence during the award enquiry. It amounts to violation of the provisions of Land Acquisition Act. Before passing of the Award, the Land Acquisition Officer has to issue notices to the interested persons, as required under the provisions of Sections 9 and 11 of the Land Acquisition Act.

8. Therefore, the Award passed by the Land Acquisition Officer dated 27-10-2004 is not proper and legal and the same is liable to be set aside.

9. In the result, the writ petitions are allowed setting aside the order dated 27-10-2004 and the Land Acquisition Officer is directed to pass Award keeping in view the

direction given in W.P.No.10102 of 2004, within three months from the date of receipt of a copy of this order. No order as to costs.

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B.Seshasayana Reddy,J

4th October, 2005.

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THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 10701 OF 2005

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COMMON ORDER:

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4th September, 2005.